



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/403,557	10/25/99	BERGER	W BERGER

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IM22/1031

EXAMINER	
RAIGURU, U	
ART UNIT	PAPER NUMBER
1711	12

DATE MAILED:

10/31/01

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☒ is extended to run _____ or continues to run 3 months from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☐ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed Oct 09, 2001 (paper no 10) has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:

- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- b. ☒ They raise new issues that would require further consideration and/or search. (See Note).
- c. ☐ They raise the issue of new matter. (See Note).
- d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE:

see note attached

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3. ☐ Upon the filing an appeal, the proposed amendment ☐ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: _____
 Claims objected to: _____
 Claims rejected: _____

However:

☐ Applicant's response has overcome the following rejection(s): _____

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because _____

of reasons stated in note attached.

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☒ Other PTO-1449 (paper no 11)

Art Unit: 1711

NOTE ATTACHED TO ADVISORY ACTION


Applicants argue (page 12, paragraph 2, Paper No. 10) that organosilicate is not disclosed by Ritter who discloses a filler. This is not persuasive because Ritter (page 22, claim 1, of English translation) teaches (claimed) alkali-silicate (water glass).

It is examiner's position that instant claims are obvious ^{over} Ritter in view of Maruhashi.

Newly amended claims 18-20 and 25-30 are also rejectable under 35 U.S.C. 112, second paragraph for failing to convey what precisely falls within their scope. They appear to be translations of a foreign language, not conforming to current US practice.


U.K. Rajguru/dh

October 19, 2001


J. M. H. H. H.
Supervisory Patent Examiner
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